

§511.12

24 CFR Ch. V (4–1–02 Edition)

the neighborhood (as defined at §511.10(c)(2)) and for the provision of housing at rents affordable to low-income families, or

(B) The project has special costs to facilitate use by the elderly or handicapped; and

(ii) The refinancing and the higher grant amount are necessary to make the project feasible.

This higher grant amount may not exceed the lesser of 75 percent of the eligible project costs or 50 percent of the sum of the eligible project costs and the amount necessary to refinance the existing indebtedness.

(2) *Per unit.* (i) Except as provided in paragraph (e)(2)(ii) of this section, the rental rehabilitation grant amounts used for any project may not exceed the sum of the following dollar amounts for dwelling units in the project:

(A) \$5,000 per unit for units with no bedrooms;

(B) \$6,500 per unit for units with one bedroom;

(C) \$7,500 per unit for units with two bedrooms; and

(D) \$8,500 per unit for units with three or more bedrooms.

(ii) HUD may approve higher rental rehabilitation grant amounts for projects in areas of high material and labor costs where the grantee demonstrates to HUD's satisfaction that a higher amount is necessary to conduct a rental rehabilitation program in the area and that it has taken every appropriate step to contain the amount of the rental rehabilitation grant within the dollar limits specified in paragraph (e)(2)(i) of this section. These higher amounts will be determined as follows:

(A) HUD may approve higher per unit amounts for a unit of general local government's entire rental rehabilitation program up to, but not to exceed, an amount derived by applying the HUD-approved High Cost Percentage for Base Cities for the area to the applicable per unit dollar limits;

(B) HUD may, on a project-by-project basis, increase the level permitted under §511.11(e)(2)(i) by multiplying the original limits by up to a maximum of 140 percent and then adding the product to the original limits. Therefore, the maximum high cost grant amount

per project that may be approved is 240 percent of the original per unit limits.

(f) *Rent or occupancy restrictions.* (1) A project rehabilitated with rental rehabilitation grant amounts under this part is not subject to State or local rent control unless the rent control requirements or agreements:

(i) Were entered into under a State law or local ordinance of general applicability that was enacted and in effect in the jurisdiction before November 30, 1983 and

(ii) Apply generally to projects not assisted under the Rental Rehabilitation Program.

(2) State and local rent controls expressly preempted by paragraph (f) of this section include, but are not limited to, rent laws or ordinances, rent regulating agreements, rent regulations, low income occupancy agreements extending beyond one year from the date of completion of rehabilitation of a project, financial penalties for failure to achieve certain low income occupancy or rent projections, or restrictions on return on investment or other similar policies that prevent an owner, whether for-profit or non-profit, from maximizing return or setting rent levels as the owner chooses. Grantees or State recipients shall not include any preempted rent or occupancy restrictions in any commitments or project agreements with the owners of Rental Rehabilitation projects.

(g) [Reserved]

(Information collection requirements contained in this section have been approved by the Office of Management and Budget under control numbers 2506-0080 and 2506-0110)

[55 FR 20050, May 14, 1990, as amended at 61 FR 7061, Feb. 23, 1996]

§511.12 Conflicts of interest.

(a) No person who is an employee, agent, consultant, officer, or elected or appointed official of the grantee or State recipient (or of any public agency that performs administrative functions in the RRP) that receives rental rehabilitation grant amounts and who exercises or has exercised any functions or responsibilities with respect to assisted rehabilitation activities, or who is in a position to participate in a decision-making process or gain inside

information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, sub-contract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

(b) The appropriate HUD Field Office may grant an exception to the exclusion in paragraph (a) of the section on a case-by-case basis when it determines that such an exception will serve to further the purposes of the Rental Rehabilitation Program and the effective and efficient administration of the local rental rehabilitation program or the project. An exception may be considered only after the grantee or State recipient has provided a disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made and an opinion of the grantee's or State recipient's attorney that the interest for which the exception is sought would not violate State or local laws. In determining whether to grant a requested exception, HUD shall consider the cumulative effect of the following factors, where applicable:

(1) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the local rental rehabilitation program or the project that would otherwise not be available;

(2) Whether an opportunity was provided for open competitive bidding or negotiation;

(3) Whether the person affected is a member of a group or class intended to be the beneficiaries of the rehabilitation activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(4) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decisionmaking process, with respect to the specific rehabilitation activity in question;

(5) Whether the interest or benefit was present before the affected person

was in a position as described in this paragraph;

(6) Whether undue hardship will result either to the grantee, State recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(7) Any other relevant considerations.

§ 511.13 Nondiscrimination, equal opportunity, and affirmative marketing requirements.

In addition to the nondiscrimination and equal opportunity requirements set forth in 24 CFR part 5, the following requirements apply:

(a) *Affirmative marketing.* The grantee shall adopt appropriate procedures and requirements for affirmatively marketing units in rehabilitated rental rehabilitation projects through the provision of information regarding the availability of units that are vacant after rehabilitation or that later become vacant. Affirmative marketing steps consist of good faith efforts to provide information and otherwise to attract eligible persons from all racial, ethnic and gender groups in the housing market area to the available housing. (These affirmative marketing procedures will not apply to units rented to families with housing assistance provided by a PHA.) The grantee shall establish procedures, requirements and assessment criteria for marketing units in the Rental Rehabilitation Program that are appropriate to accomplish affirmative marketing objectives. The grantee shall annually assess the affirmative marketing program to determine: Good faith efforts that have been made to carry out such procedures and requirements; objectives that have been met; and corrective actions that are required.

(1) For each grantee, the affirmative marketing requirements and procedures adopted must include:

(i) Methods for how the grantee will inform the public, owners and potential tenants about Federal fair housing laws and the grantee's affirmative marketing policy (such as the use of the Equal Housing Opportunity logotype or